

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8539 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S. SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes
2. To be referred to the Reporter or not? Yes
3. Whether Their Lordships wish to see the fair copy
of the judgement? No
4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?
No

VIVEKANAND VIKAS MANDAL

Versus

STATE OF GUJARAT

Appearance:

MR MUKESH R SHAH for Petitioner
GOVT. PLEADER for Respondent No. 1
MR MC BHATT for Respondent No. 2
MRS KA MEHTA for Respondent No. 3
MR BIPIN P JASANI for Respondent No. 4

CORAM : MR.JUSTICE M.S.SHAH

Date of Judgment: 12/03/1998

CAV JUDGMENT

This petition under Article 226 of the Constitution challenges the decision dated October 4, 1997 taken by the State Government in the Education Department holding that respondent No. 3 - Trust "Ahmedabad Women's Action Group" (hereinafter referred to as "the AWAG" or "respondent No. 3") is entitled to get registration under the Gujarat Secondary Education Act, 1972 (herein after referred to as "the Act") and the Secondary Education Regulations, 1974 (hereinafter

referred to as "the Regulations") for running the school called "Uttar Buniyadi Kanya Vidyalay" at Radhanpur in Banas Kantha District.

.RS 2

#. The brief facts leading to filing of the present petition are as under :-

2.1 Respondent No. 4 was running a girls school called "Uttar Buniyadi Kanya Vidyalay" at Radhanpur and also a girls hostel for girl students studying in the said school. On 3.7.1993, respondent No. 4 entered into an agreement with AWAG to hand over possession and management of the aforesaid school as well as the hostel to AWAG with effect from 3.7.1993. It was also agreed that till the registration of the school is transferred in the Government record in favour of AWAG, Smt. Ilaben Pathak of AWAG will act as the Chairperson of Education Committee of respondent No. 4. Accordingly, respondent No. 4 handed over possession and management of the school and the hostel to AWAG on 3.7.1993 and AWAG with the consent of respondent No. 4 applied to the authorities under the Act and the Regulations for transferring the management of the school to AWAG which is a women's organization. After making inquiries, the District Education Officer of Banas Kantha District, in which Radhanpur is situate, submitted his report and recommendations dated 21.4.1994 to the Gujarat State Education Board (respondent No. 2 herein) in favour of AWAG to the effect that the registration may be granted in favour of AWAG for running the aforesaid school.

2.2 As per the Regulations, particularly Regulation No. 9, the report and the recommendations of the District Education Officer were to be considered by the Executive Committee of the Board. By order dated 17.9.1994 (Annexure "A") the Board did not grant the application made by AWAG for transferring the management of the aforesaid school in favour of AWAG and, therefore, AWAG filed Special Civil Application No. 5191 of 1996 before this Court challenging the aforesaid decision of the Board. In those proceedings, it was brought to the notice of this Court that during pendency of the petition, the Government by its letter dated 31.7.1996 (Annexure "B") and the Board by its letter dated 16.8.1996 (Annexure "C") had granted the application of the petitioner herein (Vivekanand Vikas Mandal) for registration of the aforesaid school in favour of the petitioner on the basis of their resolution dated 6.2.1996 passed by respondent No. 4 herein (Sarvodaya Arogyanidhi) because respondent No. 4 had entered into

an agreement with the petitioner - Trust for handing over management of the aforesaid girls' school to the petitioner. The decision of the respondent - Board granting or refusing registration or change of registration is appealable before the State Government. Upon the aforesaid facts being brought to the notice of this Court, this Court permitted AWAG to challenge before the State Government the refusal by the Education Board for permission in favour of the AWAG as well as the grant of registration in favour of the petitioner - Trust. These directions were given by the order dated 30.9.1996 passed by this Court (Coram : Hon'ble Mr Justice M.S. Parikh) in Special Civil Application No. 5191 of 1996 wherein the AWAG was the petitioner.

2.3 The State Government thereupon heard the appeal of the AWAG and by decisions dated 28.1.1997 and 19.3.1997 accepted the appeal of AWAG for granting change of registration for running the above school and hostel in favour of the AWAG and the previous order for handing over the management of the school to the petitioner (Vivekanand Vikas Mandal) was cancelled.

2.4 The above decisions came to be challenged in Special Civil Application No. 3640 of 1997 filed by Sarvodaya Arogyanidhi - (respondent No. 4 in the present petition) i.e. the original management. When that petition came up for hearing before this Court, it was conceded by the State Government that the aforesaid decisions dated 28.1.1997 and 19.3.1997 were taken without giving an opportunity of hearing to the affected parties and, therefore, by order dated 7.7.1997 passed by this Court (Coram : Hon'ble Mr Justice R.K. Abichandani), the Government was directed to hear all the parties including AWAG (respondent No. 3 herein), Vivekanand Vikas Mandal (the petitioner herein) and Sarvodaya Arogyanidhi (respondent No. 4 herein). It was also clarified in the said order of this Court that Sarvodaya Arogyanidhi (respondent No. 4 herein) and Vivekanand Vikas Mandal (petitioner herein) were not to interfere with the management of the girls hostel by Rakshaben Mehta appointed by AWAG until the Government decided the matter as regards entrustment of the management of the hostel.

2.5 After hearing all the parties, the State Government rendered its decision dated 4.10.1997 directing that the application of the AWAG for change of registration of the aforesaid school in favour of the AWAG be accepted and not the application of the petitioner - Trust. Pursuant thereto, respondent No. 2

- Gujarat Secondary Education Board has passed the order dated 20.11.1997 1997 granting change of registration for running the aforesaid school in favour of the AWAG (respondent No. 3 herein) subject to the terms and conditions mentioned therein.

2.6 The present petition is filed by Vivekanand Vikas Mandal for challenging the aforesaid decision of the State Government and the subsequent order passed by the Education Board in favour of respondent No. 3.

#. In response to the notice issued by this Court, affidavit in reply dated 11.12.1997 filed by Mrs. llaben Pathak on behalf of the AWAG was served upon the learned counsel for the petitioner on December 11, 1997. No rejoinder has been filed on behalf of the petitioner. However, when the hearing commenced on February 27, 1998 the learned counsel prayed for time to file rejoinder affidavit. The request was strongly opposed on behalf of AWAG pointing out that the ex-parte order of maintenance of status quo passed in the present petition was coming in the way of the AWAG getting the grant from the Government and also in getting the record from the previous management. The learned counsel for the petitioner prayed for some time on the ground that his client, the Managing Trustee of the petitioner Trust is contesting elections and, therefore, the rejoinder affidavit will be filed on behalf of the petitioner Trust after the elections are over. In view of the fact that the reply on behalf of the AWAG was served on the learned counsel for the petitioner as far back as on December 11, 1997 and the petitioner Trust had more than a month's time even before the election process began, the request for adjournment was rejected. It will also not be out of place to state at this stage that on January 20, 1998, the learned counsel for the AWAG had made a grievance that the ex-parte order of maintenance of status quo was hurting the AWAG and, therefore, the petition was required to be heard. However, in view of the sick note filed by the learned counsel for the petitioner, the matter was not heard on that day, but an order was passed recording the aforesaid grievance made on behalf of the AWAG and stating that the matter will be heard on February 27, 1998 peremptorily. Accordingly, the matter has been heard on February 27, 1998. The learned counsel for the petitioner was permitted to tender a copy of the certificate dated 20.6.1997 issued by the respondent Board in favour of the petitioner.

#. At the hearing, Mr. M.R. Shah, learned counsel for the petitioner raised the following contentions :-

I Under the provisions of Section 31 of the Act read with Regulation 9, the power to grant registration for running a secondary education school and the power to make any change in relation to an existing entry in the register lies with the Executive Committee of the Education Board and not with the State Government. Hence, the impugned decision taken by the State Government was without jurisdiction.

II Assuming that the State Government had the jurisdiction to take the aforesaid decision dated 4.10.1997, the Secondary Board had simply passed a consequential order dated 20.11.97 without following the procedure prescribed by Regulation 9(3).

III As per the resolution of respondent No.4 passed on 6.2.1996, the petitioner - Trust has been running the school since 1996 and even the respondent - Board had granted it registration as per the Certificate dated 20.6.1997. In view of the order of status quo granted by this Court in Spl. C.A. No. 5191 of 1996, , it is the petitioner - Trust which is running the aforesaid school. The petitioner - Trust has not committed any default nor been served with any show cause notice and, therefore, the impugned orders are in breach of Sec. 31 (9) of the Act.

IV Long before the State Government and the Education Board passed the aforesaid two orders in October and November, 1997 respectively in favour of AWAG , the original management of the school i.e. respondent No. 4 had already revoked the agreement or consent given by respondent No. 4 in favour of the AWAG. As per Resolution dated 6.2.1996 respondent No. 4 had agreed to hand over the management of the school to the petitioner Trust and, therefore, the impugned orders are bad as the authorities could not have accepted the request of the AWAG for change in the entries in the register in absence of consent by the original management respondent No. 4 at the time when the orders were passed.

The petitioner Trust runs various other organizations in the area of Radhanpur and Banas Kantha district whereas respondent No. 3 is an outside agency which ought not to have been

preferred by the State Government for the grant of registration for managing the school in question.

There is nothing wrong with the petitioner trust or the antecedents of its trustees. Hence even on merits the decision of the State Government and the consequential order passed by the Education Board are arbitrary and unreasonable.

#. Mr. B.P. Jasani, learned counsel for respondent No. 4 - Trust i.e. original management of the aforesaid girls school supported the contentions of the learned counsel for the petitioner.

#. On behalf of the Secondary Education Board, its learned counsel has pointed out that the allegation that the registration granted by the Education Board in favour of the AWAG as per the order dated 20.11.1997 is without making any inquiry is factually incorrect because the inquiry was earlier made by the District Education Officer, Banas Kantha and in his report dated 21.4.1994, he had recommended change of registration in favour of the AWAG.

#. The brunt of the petitioner's attack was, however borne by Mrs K A Mehta, learned counsel for respondent No. 3 - AWAG, Mrs Mehta submitted as under:-

(i) The State Government did have the jurisdiction to pass the order under challenge, in view of the express provisions of Section 31(10) of the Act under which any person aggrieved by the decision of the Board may appeal to the State Government and the decision of the State Government in such appeal is made final.

(ii) The District Education Officer had submitted the report and recommendations in favour of respondent No. 3 in the year 1994 and, therefore, the Board had already earlier followed the procedure which was not required to be followed de novo after the Government passed the impugned order dated 4.10.1997.

(iii) The previous communication of the State Government and previous decision of the Secondary Education Board in 1996 in favour of the petitioner - Trust was merely on the basis of subsequent so called agreement by respondent No. 4 in favour of the petitioner Trust. The

so-called registration in favour of the petitioner Trust granted in June, 1997 was also on the basis of the subsequent application made by the petitioner Trust with the support of respondent No. 4 Trust. Since the proceedings challenging the previous decisions of the Board were already pending either before the State Government or before this Court since 1996, the previous registration granted by the respondent Board in favour of the petitioner Trust during the pendency of Spl. C.A. No. 5191/96 and Spl.C.A. No. 2640 of 1997 cannot survive in view of the subsequent decision of the State Government and the subsequent registration granted by the respondent - Board in favour of the AWAG. In fact, the State Government had already cancelled on 28.1.97/19.3.97 the previous permission in favour of petitioner - Trust.

- (iv) The Board had earlier overlooked certain material aspects while granting change of registration in favour of the petitioner - Trust :-

In the first place, the issue involved was not merely management of the school, but the management of the girls school with a girls hostel in a tribal area. The petitioner - trust or respondent No. 4 - Trust has not challenged the agreement for handing over the management of the girls hostel in favour of the AWAG, which is a women's action group. There is no dispute about the management of the girls hostel being with the AWAG. The dispute raised in the petition is only in respect of the management of the girls school and not the girls hostel.

Secondly, the AWAG is a reputed Women's Organization with an office at Radhapur also and in rendering services in various fields for upliftment of Women. The AWAG has already invested Rs. 4 lakhs in the aforesaid school and hostel.

Thirdly, the AWAG has been managing the aforesaid girls hostel as well as the girls school since 1993 on the basis of the agreement dated 3.7.1993

executed by respondent No. 4 - Trust in favour of

the AWAG for running the aforesaid girls school as well as the girls hostel within the same compound.

Fourthly, the agreement by respondent No. 4 in favour of the AWAG was also earlier in point of time and the District Education Officer had also submitted his report and recommendations in favour of the AWAG in 1994.

Hence, the final decision of the State Government in favour of respondent No. 3 is not required to be interfered with even on merits.

(v) It was also submitted that on a previous occasion, when respondent No. 4 was in charge of the management of the school, an untoward incident was reported that its Managing Trustee had committed rape on a tribal student and no action was taken by the police in the matter. (Reference was made to the penultimate para in this Court's order dated 7.7.1997). In this background it is all the more desirable that a women's organization like AWAG be permitted to run and manage the school rather than the petitioner - Trust presently supported by respondent No.4.

DISCUSSION

CONTENTIONS I & II

#. As regards the first contention of the learned counsel for the petitioner, it is true that under the provisions of sub-sections (4) and (6) of Section 31 of the Act, the power to grant registration for imparting secondary education through a school is vested in the Board. Clauses (4), (6) and (8) of Regulation 9 also provide that the decision of behalf of the Board is required to be taken by its Executive Committee. The petitioner Trust is banking on the previous decision of the Secondary Education Board, which according to the petitioner, was taken by the Executive Committee of the Board. According to the petitioner, since no such decision is taken by the Executive Committee of the Education Board in favour of AWAG, the State Government

had no power to grant registration for running the school in question in favour of AWAG.

The above contention is fallacious as will be evident from the following statutory provisions of Section 31 of the Act :-

"(4) Every person who desires to impart secondary education by establishing a school, shall, on an application in such form and on payment of such fee as may be prescribed, be entitled to have the name of the school entered in the register, subject to the fulfillment of the conditions prescribed by the Board for registration of secondary schools.

(5)

(6) The Board shall consider and make an inquiry in respect of every such application for registration in such manner as may be prescribed and then decide it within a period of three months from the date of receipt of the application by the Board.

(7) to (9)... ..

(10) Any person aggrieved by the decision of the Board under sub-section (6) or sub-section (9) may, within a period of one month from the date on which such decision is communicated to him appeal, to the State Government, and the State Government shall decide the appeal within two months from the date of the presentation of the petition of appeal and the decision in such appeal shall be final."

It is thus clear that the decision of the State Government was in exercise of the powers conferred by sub-section (10) of Section 31 as an appellate authority. As per the settled legal position, the appellate authority can exercise the same powers and can pass the same orders which the lower authority had the jurisdiction to pass. Consequently, the State Government had full power and jurisdiction to take the decision to grant registration for running the school in question in favour of the AWAG as against the claim of the petitioner - Trust.

#. The aforesaid provision is also a complete answer to

the second contention urged by the learned counsel for the petitioner that even after the decision of the State Government, the Education Board was required to hold a further inquiry and then to grant registration. The inquiry was already made by the District Education Officer who had already submitted his report and recommendations in favour of the AWAG in April, 1994 as per the letter which was shown to the Court at the hearing of this petition and it was also shown to the learned counsel for the parties. In this connection, it is also required to be noted that Regulation 9 provides for detailed procedure for registration of secondary schools by the Board. Clauses (7), (8) and (10) of Regulation 9 in so far as the same are material for the purpose of the present discussion, read as under :-

"(7) No secondary school shall be registered by the Board or continued to be registered unless it fulfills the following requirements, namely :-

(i) the management is in the opinion of the Board competent and reliable and is in hands of a properly constituted authority or managing body and its financial stability is assured;

(ii) to (xiv)

(8) (i) Where the Executive Committee is satisfied that the school deserves to be registered, the Executive Committee shall direct the Secretary to enter its name in the list of the registered secondary schools to be maintained by him and the Secretary shall inform the applicant that the school has been registered and where the Executive Committee decides that the school shall not be registered the decision shall be communicated by the Secretary to the applicant:

(ii) Where recommendation of the officer to register or not to register a school, is not accepted by the Executive Committee, the reasons therefore shall be recorded in writing;

(9)

(10) On a request made by a person in charge of management of a registered school the Secretary may make a change in the entries in

relation to the school entered in the register after following, as far as may be, the procedure similar to the procedure for registration of the school, and obtaining the previous approval of the Executive Committee of the Board to such change."

A perusal of the impugned decision dated 4.10.1997 of the State Government clearly shows that in exercise of its appellate power the State Government has arrived at the satisfaction that the AWAG deserved to be registered and, therefore, the Government has directed the respondent - Board to make a change in the entry in relation to the school entered in the register in favour of the AWAG rather than in favour of the petitioner Trust.

CONTENTION III

##. The learned counsel for the petitioner submitted that the petitioner - Trust was running the classes pursuant to the previous decision of the Board and that the Board had not found the petitioner - Trust to have committed any default so as to warrant cancellation of the registration already given in favour of the petitioner - Trust. It was vehemently submitted that since the registration was granted in favour of the petitioner - Trust on 20.6.1997, the only source of power for taking away the registration is contained in sub-section (9) of Section 31 which reads as under :-

"31(9) Where any person in charge of the management of a registered school has been, after due enquiry by the Board in the prescribed manner, found to have committed default in carrying out any of the obligations imposed on such person under this Act or the regulations, or any instructions issued to him by the Board, the Board shall, after giving to such person an opportunity of being heard, direct the name of the school to be removed from the register for such period as may be specified in the direction or to be removed from the register permanently."

It was submitted that since no such inquiry was made by the Board or by the State Government after the grant of registration in favour of the petitioner - Trust as per the Certificate dated 20.6.1997, it was not open to the State Government or the Education Board to take any decision which will have the effect of cancelling the registration granted in favour of the petitioner - Trust.

##. The above argument is not tenable because, as rightly contended by the learned counsel for respondent No. 3, the previous decision of the Board in favour of the petitioner - Trust had never become final since the proceedings were already pending before this Court and before the State Government in respect of the same subject matter. In fact the Government decision dated 31.7.1996 and the Board decision dated 16.8.1996 in favour of the petitioner herein were taken during pendency of Special Civil Application No. 5191 of 1996 filed by the AWAG. Similarly, after the State Government passed order dated 28.1.1997 for granting registration of the school in favour of AWAG and even after the Government passed order dated 19.3.1997 permitting handing over of the hostel to AWAG, those decisions were not acted upon by the respondent - Education Board immediately and the said decisions were challenged in Special Civil Application No. 3640 of 1997 filed by the original management. In that petition, this Court granted ad-interim stay against execution and implementation of the aforesaid order of the State Government. During operation of the said ad-interim stay, the Education Board issued certificate dated 20.6.1997. But after this Court directed the Government to decide the matter after hearing all the affected parties, the Government heard all the parties and gave its decision dated 4.10.1997 in favour of the AWAG. In this view of the matter, the certificate relied upon by the petitioner cannot carry its case any further. It is only the final decision dated 4.10.1997 of the State Government which has now attained the finality under sub-section (10) of Section 31 of the Act. The decision of the Board had never attained any finality. The grant of registration certificate in favour of the petitioner Trust in June, 1997 during the pendency of Special Civil Application No. 3640 of 1997 appears to have been based on the decision of the board and the decision of the State Government taken in 1996 during the pendency of Special Civil Application No. 5191 of 1996. On both the previous occasions this Court directed the matter to be considered by the State Government. The first order was passed on 30.9.1996 and the second order on 7.7.1997. In this set of circumstances, it can never be said that the previous decision of the Board in favour of the petitioner - Trust had attained any finality. Under the circumstances, the question of holding any inquiry by the Board for cancellation of the registration in favour of the petitioner - Trust did not arise. It is also the specific case on behalf of the Board that the grant of registration in favour of the AWAG on 20.11.1997 is not on the ground of any default having been committed by the

petitioner Trust in carrying out any of the obligations cast on the petitioner - Trust pursuant to the earlier grant of registration.

##. In this view of the matter, it is clear that the impugned decision of the State Government rendered on 4.10.1997 and the order of the Board passed on 20.11.1997 conferring registration for running the school in question in favour of the AWAG by making necessary change in the entries in relation to the school entered in the register maintained by the respondent Board is in accordance with law and there is no breach of any substantive or procedural provision of the Act or the Regulations.

CONTENTION IV

##. In support of the final contention, it was urged by the learned counsel for the petitioner and supported on behalf of respondent No. 4 that the Government and the Board could not have granted registration in favour of respondent No. 3 when the previous agreement or consent given by respondent No. 4 in favour of the AWAG was already withdrawn and that on the date when the hearing took place before the State Government and the decision was rendered by the State Government and registration was granted by the Board in favour of the AWAG, the consent of respondent No. 4 original management was in favour of the petitioner Trust and not in favour of the AWAG. It was further submitted that the authorities had not found anything wrong with the antecedents of the trustees of the petitioner - Trust and that whatever untoward incident might have happened earlier, none of the trustees of the petitioner Trust were responsible.

##. The aforesaid contention cannot be accepted because in the first place this Court is not sitting in appeal over the decision of the State Government. The decision of the State Government is not vitiated on any ground on which this Court can exercise the power of judicial review. However, since the aforesaid contention has been vehemently urged on behalf of the petitioner Trust and supported on behalf of respondent No. 4 Trust by contending that the Government has taken irrelevant factors into consideration and has not taken relevant factors into consideration, it is necessary to say a few words in this regard at this stage.

##. It is now widely accepted that the progress of a country or society is not to be measured merely in terms of its Gross Domestic Product or Gross National Product

and that the better indices for measuring progress and development of a society are the human development index of which health and education are the primary parameters. It is also recognized that slow progress on the health front as measured by parameters like infant mortality rate and the tardy progress in the field of education are not merely on account of the lack of economic resources but also on account of illiteracy amongst a large segment of the rural women-folk. In rural areas, and that too in tribal areas like Radhanpur where the school in question is situate, the parents would be more inclined to send their daughters for education to a boarding school which is run by a women's organization. As is pointed out on behalf of the AWAG, it is a women's organization of repute which also has its office at Radhanpur and other areas rendering services to women in different fields and also encouraging various activities for the socio-economic upliftment of women. The untoward incident referred to hereinabove would more than shake the confidence of the parents in the rural and tribal areas, who are even otherwise disinclined to send their daughters for secondary or higher education. It is nobody's case that the trustees of the petitioner - Trust have any negative antecedents and the State Government and the Board have also not made any negative observation against the antecedents of the trustees of the petitioner Trust. It is indeed a tragedy of our times that now evaluation is sought in terms of absence of antecedents and not in terms of better credentials! Be that as it may, the fact remains that respondent No. 3 AWAG has been running the girls hostel. The girls hostel is obviously meant for girl students who are studying, inter alia, in the secondary school which is the subject matter of the present proceedings. Even from administrative point of view, therefore, it would be more convenient for the same institution i.e. the AWAG - a women's organization - to manage the secondary school as well as the girls hostel.

##. In the aforesaid circumstances, this Court is of the view that the State Government has not taken any irrelevant factor into consideration and has considered the relevant factors for arriving at the impugned decision. The decision of the State Government is eminently just and proper. Even if there were any procedural shortcomings (the findings are that there are none), this Court would have declined to interfere with the decision of the State Government under challenge because as held by Their Lordships of the Supreme Court in the case of A.M. Allison vs. B.L. Sen, AIR 1957 SC 227 while exercising extraordinary prerogative writ

jurisdiction under Article 226 of the Constitution, the Court can decline to interfere even if there is any illegality, if there is no failure of justice.

##. There is no substance in any of the contentions raised on behalf of the petitioner and supported on behalf of respondent No. 4. The petition is devoid of merit and deserves to be dismissed.

O R D E R

##. The petition is accordingly dismissed. Notice is discharged. Ad-interim granted earlier requiring the parties to maintain status-quo is hereby vacated.

Sd/-

March 12, 1998 (M. S. Shah, J.)

At this stage, the learned counsel for the petitioner prays that the ad-interim order of maintenance of status quo passed earlier may be continued for four weeks to enable the petitioner - Trust to carry the matter in appeal. In the facts and circumstances of the case, the ad-interim order passed earlier shall continue till March 26, 1998.

Mr Shah further submits that 22 girl students of Uttat Buniyadi Kanya Vidyalaya at Radhanpur with Code No. 60.210 were already granted permission to appear at the ensuing SSC Examination through the petitioner - Trust, but recently the students have learnt that their seat numbers are cancelled in view of some communication from the respondent - Board on account of the dispute which is the subject matter of the present petition.

It is obvious that on account of the dispute between two managements, the students who have already studied in the said school and are about to appear at the examination should not be made to suffer. It is, therefore, directed that respondent - Board shall, since it had already earlier permitted the said students to appear at the examination, permit the said students to appear at the ensuing examination which is scheduled to commence from March 16, 1998 and that their seat numbers shall not be cancelled.

Sd/-

March 12, 1998 (M.S. Shah, J.)

Sundar

